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# Navy Spy Case Goes to California Jury

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SAN FRANCISCO, July 11 — Sixteen weeks after the trial began, the jury today began deliberating the charges of espionage and tax fraud against Jerry A. Whitworth.

The jurors are faced with reaching a verdict on a 13-count indictment that accuses Mr. Whitworth of being involved in an espionage conspiracy on behalf of the Soviet Union that stretched from 1974, when the former Navy radioman is alleged to have been recruited as a spy by John A. Walker Jr., until May 1985, when Mr. Walker was arrested in a Maryland hotel room.

The jurors began their deliberations with several major issues decided by concessions from the defense attorneys. The defense has conceded that Mr. Whitworth passed military data to Mr. Walker, who has confessed heading a Soviet spy ring, and received money from Mr. Walker on which he did not pay income taxes.

The heart of what the jury is left to decide involves Mr. Whitworth's intent when he passed the Navy data to Mr. Walker. Because the indictment specifically states that Mr. Whitworth intended to aid the Soviet Union through the theft of classified Navy cryptographic data and coded messages, Federal District Judge John P. Vukasin Jr. told the jurors they must find that the defendant knew the materials were destined for that country if it was to find him guilty of espionage.

## Indictment Named Russia

With the cryptographic material, the Soviet Union could have decoded secret Navy messages from a variety of ships and land bases.

The broad espionage statute under which Mr. Whitworth is charged makes it illegal to conspire to pass such information to any foreign government with the intent to aid that government or harm the United States.

Mr. Walker, who has pleaded guilty to espionage and is awaiting sentencing in Baltimore, Md., testified at the trial in May that he never directly told Mr. Whitworth the materials were being bought by Soviet agents.

Mr. Whitworth's attorneys argued that he believed the stolen data were being sold to Israel and, because Israel is an ally of the United States, he did not think the data would be used to harm this country.

The first count of the indictment charges that Mr. Whitworth joined in a conspiracy with Mr. Walker to deliver national defense information to the Soviet Union and carries a maximum sentence of life in prison and \$250,000 fine.

The next six espionage counts charge Mr. Whitworth with specific acts of delivering military data to which he had access as a radioman with a top-secret security clearance at various duty stations aboard several ships and in different countries. Each of these counts carries a maximum sentence of life in prison.

## Jury Can Consider Lesser Charge

Judge Vukasin told the jurors that if they were unable to reach a verdict on these counts, they could find Mr. Whitworth guilty of a lesser charge of passing classified military information to an unauthorized person. Each count carries a maximum sentence of 10 years in prison.

Defense attorneys asked the jury to find Mr. Whitworth not guilty on the last of the espionage counts, which accuses him of passing photographs of messages from the aircraft carrier Enterprise to Mr. Walker in June 1983.

Mr. Walker testified that the roll of film was improperly exposed and his Soviet contacts were angry that the photographs were unusable.

The eighth count charges Mr. Whitworth with obtaining a specific document with the intent that it be used to aid the Soviet Union. The document, part of the Navy's wartime contingency plan for the Middle East, was the only classified document found in a search of Mr. Whitworth's home in May 1985. Conviction on the charge carries a maximum sentence of 10 years in prison and \$10,000 in fines.

The defense argued that Mr. Whitworth should be acquitted on this count, because the document was inadvertently mixed with other papers he took from the Enterprise.

Defense attorneys have conceded that they have no defense for the next four counts, which charge Mr. Whitworth with filing false tax returns. The Government charges that he received \$332,000 from Mr. Walker in exchange for the stolen data.

An investigation by agents of the Internal Revenue Service uncovered more than 44 credit card accounts and 42 bank accounts used by Mr. Whitworth and his wife, Brenda L. Reis, as well as spending and investments using cash totaling \$130,000 more than their reported income. Mr. Whitworth retired from the Navy in 1983 as a chief petty officer with 20 years of service.

These four counts of tax fraud carry a maximum term of 12 years in prison and \$20,000 in fines.

The last count of the indictment charges that Mr. Whitworth conspired with Mr. Walker to defraud the tax

agency by hiding the money they earned from their spying activities. The charge carries a maximum sentence of five years in prison and \$250,000 in fines.

Defense attorneys argued that Mr. Whitworth should be acquitted on this charge because, while acknowledging he received the money, they said the Government failed to prove he conspired with Mr. Walker to conceal it.